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8 *Attorneys for the United States*

9 **IN THE UNITED STATES DISTRICT COURT**  
10 **FOR THE NORTHERN DISTRICT OF CALIFORNIA**  
11 **OAKLAND DIVISION**

12 \_\_\_\_\_  
13 DOE 1, DOE 2, and KASADORE  
14 RAMKISSOON, on Behalf of Themselves and  
all other Persons Similarly Situated,

15 Plaintiffs,

16 v.

17 AOL LLC,

18 Defendant.

**Case No. 4:06-cv-05866-SBA**

**STIPULATION PERMITTING  
THE UNITED STATES TO  
INTERVENE**

19 The United States and the parties, through their undersigned counsel, hereby stipulate to it  
20 to the intervention of the United States, as a matter of right, and limited to defending the  
21 constitutionality of an act of Congress. The United States respectfully requests that the Court  
22 enter the order below and allow the United States to intervene.

23 **RECITALS**

24 1. Defendant has challenged in part the constitutionality of Title II of the Electronic  
25 Communications Privacy Act of 1986, commonly known as the Stored Communications Act  
26 (SCA), Pub. L. 99-508, ch. 121, §§ 201, *et. seq.*, *codified as amended* at 18 U.S.C. § 2701, *et.*  
27 *seq.*, in its motion for judgment on the pleadings filed June 29, 2009. *See* Dkt. 100 at 10-12.  
28 Defendant has also filed a notice of constitutional challenge, *see* Dkt. 102.

2. Section 2403(a) of Title 28 of the U.S. Code provides that:

In any action, suit or proceeding in a court of the United States to which the United States or any agency, officer or employee thereof is not a party, wherein the constitutionality of any Act of Congress affecting the public interest is drawn in question, the court . . . shall permit the United States to intervene for presentation of evidence, if evidence is otherwise admissible in the case, and for argument on the question of constitutionality.

3. The Federal Rules of Civil Procedure authorize intervention as of right “when a statute of the United States confers an unconditional right to intervene.” Fed. R. Civ. P. 24(a)(1).

4. By way of this filing, the United States seeks to intervene to address the constitutionality of the SCA.

5. The United States’ brief supporting the constitutionality of the SCA is being filed concurrently herewith.

#### STIPULATION

The Plaintiffs, Defendant, and the United States, through their attorneys of record, hereby stipulate and request that the Court make this stipulation an order of the Court:

1. The United States shall be permitted to intervene in the above-captioned action pursuant to Federal Rule of Civil Procedure 24.

Dated: October 13, 2009

Respectfully submitted,

TONY WEST  
Assistant Attorney General

JOSEPH P. RUSSONIELLO  
United States Attorney

JOHN R. GRIFFITHS  
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*/s/ Alexander K. Haas*  
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**DECLARATION PURSUANT TO GENERAL ORDER 45, § X.B**

I, ALEXANDER K. HAAS, hereby declare pursuant to General Order 45, § X.B, that I have obtained the concurrence in the filing of this document from each of the other signatories listed below.

I declare under penalty of perjury that the foregoing declaration is true and correct.

Executed on October 13, 2009, in the City of Washington, District of Columbia.

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JOHN GRIFFITHS  
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By: /s/ Alexander K. Haas  
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**[PROPOSED] ORDER**

Pursuant to the foregoing stipulation, it is hereby ORDERED that:

1. The United States shall be permitted to intervene in the above-captioned action pursuant to Federal Rule of Civil Procedure 24.

IT IS SO ORDERED.

Dated: 10/26, 2009.

  
HON. SAUNDRA BROWN ARMSTRONG  
United States District Judge